In the High Court of Punjab and Haryana, Chandigarh.

Custom Appal No.4 of 2007

Date of Decision: 15.3.2007

The Commissioner of Customs, Amritsar.

…Appellant.

Versus

M/s Sharman Woollen Mills Limited

…Respondent.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mrs.Daya Chaudhary,
Assistant Solicitor General of India
for the appellant.

JUDGMENT

M.M.KUMAR, J. (ORAL)

The revenue has approached this Court by filing the instant appeal under Section 130 of the Customs Act, 1962, against the interlocutory order dated 11.10.2006 (Annexure P3) passed in Customs Stay Application No.2203 of 2006 in Customs Appeal No.521 of 2006. The Appellate Tribunal has refused to stay the operation of the order passed by the Commissioner (Appeals) dated 8.5.2006 (Annexure P2) whereby the Commissioner has taken the view favourable to the assessee holding that realisation of duty by the revenue was after one year which is time barred and extended period of limitation was not available as it was not a case of evasion. The Tribunal has also repelled the arguments based on Rule 41 of CESTAT (Procedure) Rules, 1982 and has found prima facie case in favour of the assessee.

After hearing the learned Assistant Solicitor General of India, we are of the view that the Commissioner (Appeals) has decided the issue in favour of the assessee and the Tribunal after examining various aspects of the controversy has recorded prima facie satisfaction refusing to stay the operation of the order passed by the Commissioner (Appeals). At this stage, we do not wish to interfere in the order passed by the Tribunal as we feel content to record that once the Tribunal has taken a particular view in the matter at interim stage, it would be inapt for us to interfere in the matter. It is not one of those exceptional cases where the interference of this Court would be warranted at this stage. We are not deliberately making any observation on the merits of the case least it may prejudice the mind of the Tribunal where the main appeal is pending.

Accordingly, the appeal fails and the same is dismissed.

(M.M.KUMAR)
Judge

March 15, 2007 **(RAJESH BINDAL)**
dkb **Judge**